

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Stephen M. Bull

Assignee: Cutlass, Inc.

Title: INTERACTIVE ENTERTAINMENT

Serial No.: 09/931,817 File Date: August 16, 2001

Examiner: Corbett B. Coburn Art Unit: 3714

Docket No.: BUL-001

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September 1, 2006

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

This Appeal Brief is in support of the Notice of Appeal  
dated July 6, 2006.

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**I. REAL PARTY IN INTEREST**

The real party in interest is the assignee, Cutlass, Inc., pursuant to the Assignment recorded in the U.S. Patent and Trademark Office on August 16, 2001 on Reel 012108, Frame 0409.

**II. RELATED APPEALS AND INTERFERENCES**

Based on information and belief, there are no other appeals or interferences that could directly affect or be directly affected by or have a bearing on the decision by the Board of Patent Appeals in the pending appeal.

**III. STATUS OF CLAIMS**

Claims 25-28 are pending. Claims 25-28 stand rejected. In the present paper, rejected Claims 25-28 are appealed. Pending Claims 25-28 and withdrawn Claims 1-24 and 29-39 are listed in Appendix A.

**IV. STATUS OF AMENDMENTS**

All claim amendments have been entered.

The Examiner noted in the Final Office Action that Claim 28 was incorrectly labeled as being "Currently Amended". Claim 28 is correctly labeled herein as "Original".

## V. SUMMARY OF CLAIMED SUBJECT MATTER

Appellant provides a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, i.e. Claim 25, and refers to exemplary citations in the Specification by page and line number (and paragraph number) and to exemplary elements of the drawings for such explanation.

A method of providing a game that creates awareness of at least one sponsor [page 28, lines 6-20 (paragraph 0065)], the method comprising:

defining a plurality of game spaces [page 36, line 12 to page 37, line 17 (paragraphs 0079-81); Figure 1, Space1, Space2, Space 3], each game space including an advertising object and a clue involving the advertising object [Figure 1, Product1, Product2, Product3, ClueSeries1], wherein solving the clue includes interacting with the advertising object, thereby creating awareness of a sponsor of the advertising object [page 29, line 15 to page 33, line 5 (paragraphs 0067-0072)]; and

after solving the clue, directing a player to proceed from one game space to a next game space including a next advertising object [page 36, line 12 to page 37, line 17 (paragraphs 0079-81); Figure 1, Space1, Space2, Space 3].

## VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following issues are presented to the Board of Appeals for decision:

(A) Whether Claims 25-28 are patentable under 35 U.S.C. 102(e)/103(a) over U.S. Patent 6,320,495 (Sporgis).

## VII. ARGUMENTS

### A. Claims 25-28 are patentable under 35 U.S.C. 102(e)/103(a) over U.S. Patent 6,320,495 (Sporgis).

#### 1. Sporgis: Overview

Sporgis teaches a treasure hunt type game that utilizes global positioning satellite (GPS) equipped wireless communications devices. Abstract. Sporgis teaches that the next clue to be given to a particular player, as determined by the game master, depends on the player's location as well as other variables, such as the number of clues the player has correct answered and the position of the other players. Col. 3, lines 9-13. Players may be given clues that direct them to locate various objects. Col. 5, lines 45-47. These clues can include simple text, video, music, cartoons/animation, still pictures, sound, diagrams, or any combination of the above. Col. 3, lines 44-47. The clues may be based in or linked to a wide variety of mediums, such as television, programs, books, magazines, pictures, buildings, web sites, or any number of mediums or combinations thereof. Col. 4, lines 39-43.

#### 2. Appellant's limitations recited in Claims 25-28 are not taught by Sporgis.

Claim 25 recites, in part:

defining a plurality of game spaces, each game space including an advertising object and a clue involving the advertising object, wherein solving the clue includes interacting with the advertising object, thereby creating awareness of a sponsor of the advertising object.

Appellant respectfully submits that Sporgis fails to disclose or suggest a game that creates awareness of a sponsor

by interacting with an advertising object of the sponsor to solve a clue.

Sporgis generically states that an "endless variety" of clues can be transmitted to the game players. Col. 3, lines 47-51. Appellant respectfully submits that this generic teaching is effectively "boilerplate" and clearly fails to demonstrate that Sporgis envisioned the use of advertising objects in solving clues in a game.

Sporgis does teach that commercial sponsors can support a game in exchange for affiliation with the game and advertising rights. Col. 3, lines 21-23. Sporgis also teaches that a website can allow individuals who are not participating in the game to follow along with the players' progress Col. 3, lines 52-54. Advertisements can be placed on this website to generate revenue. Col. 3, lines 54-55.

Notably, a **player's** awareness of a sponsor by merely supporting a game is probably minimal absent previous knowledge. In contrast, in Appellant's game, the player **interacts with the advertising object of the sponsor in order to solve the clue in that game space**. This interaction creates a significantly more relevant and lasting awareness of the sponsor than that proposed by Sporgis. It logically follows that sponsors will more readily support a game if the game itself creates/solidifies awareness of the sponsor based on interaction with the sponsor's advertising object.

Because Sporgis fails to disclose or suggest the player's interacting with the advertising object, thereby creating awareness of the sponsor, and its attendant advantages, Appellant requests reconsideration and withdrawal of the rejection of Claim 25.

Claims 26-28 depend from Claim 25 and therefore are patentable for at least the reasons presented for Claim 25.

Based on those reasons, Appellant requests reconsideration and withdrawal of the rejection of Claims 26-28.

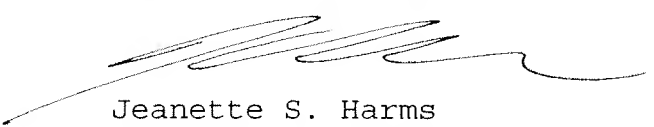
B. CONCLUSION

For the foregoing reasons, it is submitted that the Examiner's rejections of Claims 25-28 are erroneous, and reversal of these rejections is respectfully requested.

Respectfully submitted,

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**VIII. CLAIMS APPENDIX**

1. (Withdrawn) An interactive game wherein comprising:
  - a set of one or more game spaces;
  - a set of one or more advertising objects located within the game spaces;
  - a set of one or more players interacting with advertising objects in the game spaces while playing the game; and
  - an alpha player directing game play near the advertising objects.
2. (Withdrawn) The interactive game of Claim 1, wherein the alpha player directs game play by providing clues to the set of players.
3. (Withdrawn) The interactive game of Claim 1, wherein the alpha player directs game play by providing riddles to the set of players.
4. (Withdrawn) The interactive game of Claim 3, wherein the riddles are trivia questions.
5. (Withdrawn) The interactive game of Claim 4, wherein the trivia questions relate to an advertisement of a game sponsor.
6. (Withdrawn) The interactive game of Claim 3, wherein the riddles are portions of an advertisement of a game sponsor and a correct answer is a completion of the advertisement.
7. (Withdrawn) The interactive game of Claim 1, wherein the set of players subscribe to be eligible to play the interactive game.

8. (Withdrawn) The interactive game of Claim 1, wherein the advertising objects include information about a sponsor.
9. (Withdrawn) The interactive game of Claim 1, wherein the advertising objects include products from a sponsor.
10. (Withdrawn) The interactive game of Claim 1, wherein the advertising objects include advertisements from a sponsor.
11. (Withdrawn) The interactive game of Claim 1, wherein the game spaces include public places.
12. (Withdrawn) The interactive game of Claim 11, wherein the public places include Times Square.
13. (Withdrawn) The interactive game of Claim 1, wherein the game spaces include trade shows.
14. (Withdrawn) The interactive game of Claim 13, wherein the trade shows include toy trade shows.
15. (Withdrawn) The interactive game of Claim 1, wherein the game spaces include college campuses.
16. (Withdrawn) The interactive game of Claim 1, wherein the game spaces include theme parks.
17. (Withdrawn) The interactive game of Claim 1, wherein the game spaces include wild-life areas.

18. (Withdrawn) The interactive game of Claim 1, wherein the alpha player directs the game by generating puzzles.

19. (Withdrawn) The interactive game of Claim 18, wherein the alpha player generates a first number of puzzles.

20. (Withdrawn) The interactive game of Claim 19, wherein the players solve a first number of the puzzles to successfully complete the game.

21. (Withdrawn) The interactive game of Claim 19, wherein an additional second number of puzzles are generated by one or more of the players.

22. (Withdrawn) The interactive game of Claim 21, wherein the players solve a first number of the puzzles to successfully complete the game.

23. (Withdrawn) The interactive game of Claim 22, wherein the alpha player changes the first number of puzzles to alter characteristics of the game.

24. (Withdrawn) The interactive game of Claim 1, further comprising a treasure chest, wherein the game is completed by ascertaining a keyword which opens the treasure chest to reveal a prize.

25. (Previously Presented) A method of providing a game that creates awareness of at least one sponsor, the method comprising:

defining a plurality of game spaces, each game space including an advertising object and a clue involving the

advertising object, wherein solving the clue includes interacting with the advertising object, thereby creating awareness of a sponsor of the advertising object; and

after solving the clue, directing a player to proceed from one game space to a next game space including a next advertising object.

26. (Previously Presented) The method of Claim 25, wherein knowledge of a defined game space is communicated to players located in a cell zone of the game space.

27. (Previously Presented) The method of Claim 25, further including: confirming solving the clue using a cross-channel manner.

28. (Original) The method of Claim 27, wherein the cross-channel manner utilizes a cellular telephone.

29. (Withdrawn) The method of Claim 27, wherein the cross-channel manner utilizes a wireless personal digital assistant.

30. (Withdrawn) The method of Claim 27, wherein the cross-channel manner utilizes an Internet-connected computer.

31. (Withdrawn) The method of Claim 27, wherein the cross-channel manner utilizes a pay telephone.

32. (Withdrawn) The method of Claim 27, wherein the cross-channel manner utilizes an Internet web browser.

33. (Withdrawn) The method of Claim 27, wherein the cross-channel manner utilizes an Internet appliance.

34. (Withdrawn) The method of Claim 33, wherein the Internet appliance is an interactive television.

35. (Withdrawn) The method of Claim 27, wherein the cross-channel manner includes interfacing with users of a chat room.

36. (Withdrawn) The method of Claim 27, wherein the cross-channel manner includes interfacing with other players to determine a viability of dating.

37. (Withdrawn) The method of Claim 27, wherein the cross-channel manner includes providing an advertising profile to enter a solution to the clue.

38. (Withdrawn) The method of Claim 27, wherein the clue is provided free of charge after the player listens to an advertisement.

39. (Withdrawn) The method of Claim 27, wherein the clue is provided on a cost-basis without listening to an advertisement.

IX. EVIDENCE APPENDIX

None

X. RELATED PROCEEDINGS APPENDIX

None